

IC 14-22-34

Chapter 34. Nongame and Endangered Species Conservation

IC 14-22-34-1

"Endangered species" defined

Sec. 1. (a) As used in this chapter, "endangered species" means any species or subspecies of wildlife whose prospects of survival or recruitment within Indiana are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:

- (1) The destruction, drastic modification, or severe curtailment of the habitat of the wildlife.
- (2) The overutilization of the wildlife for scientific, commercial, or sporting purposes.
- (3) The effect on the wildlife of disease, pollution, or predation.
- (4) Other natural or manmade factors affecting the prospects of survival or recruitment within Indiana.
- (5) Any combination of the factors described in subdivisions (1) through (4).

(b) The term includes the following:

- (1) Any species or subspecies of fish or wildlife appearing on the United States list of endangered native fish and wildlife (50 CFR 17, Appendix D).
- (2) Any species or subspecies of fish and wildlife appearing on the United States list of endangered foreign fish and wildlife (50 CFR 17, Appendix A).

As added by P.L.1-1995, SEC.15.

IC 14-22-34-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the nongame fund established by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-3

"Management" defined

Sec. 3. (a) As used in this chapter, "management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining those levels.

(b) The term includes the following:

- (1) The entire range of activities that constitute a modern scientific resource program, including research, census, law enforcement, habitat acquisition and improvement, and education.
- (2) When and where appropriate, the periodic or total protection of species or populations as well as regulated taking.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-4

"Nongame species" defined

Sec. 4. As used in this chapter, "nongame species" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by Indiana statute or rule.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-5

"Take" defined

Sec. 5. As used in this chapter, "take" means to:

- (1) harass, hunt, capture, or kill; or
- (2) attempt to harass, hunt, capture, or kill;

wildlife.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-6

"Wildlife" defined

Sec. 6. As used in this chapter, "wildlife" means:

- (1) any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal; or
- (2) any part, product, egg or offspring, or the dead body or parts of the wild animal.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-7

Investigations of nongame species; adoption of rules

Sec. 7. (a) The director shall conduct investigations on nongame species to determine the species that are in need of management. The director may consider information relating to the following:

- (1) Population.
- (2) Distribution.
- (3) Habitat needs.
- (4) Limiting factors.
- (5) Other biological and ecological data.

(b) On the basis of the determination made under subsection (a), the director shall adopt rules that do the following:

- (1) Designate the species or subspecies of nongame species that the director considers in need of management under this section, giving the common and scientific names by species and subspecies.
- (2) Develop management programs designed to ensure the continued ability of nongame species in need of management to perpetuate themselves successfully.

(c) The director shall conduct ongoing investigations of nongame species to determine if the rules need to be amended.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-8

Limits on taking or possession of nongame species

Sec. 8. The director shall adopt rules to establish proposed

limitations relating to:

- (1) taking;
- (2) possession;
- (3) transportation;
- (4) exportation;
- (5) use;
- (6) processing;
- (7) sale or offer for sale; or
- (8) shipment;

of nongame species that are considered necessary to manage the species.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-9

Unlawful taking or possession of nongame species

Sec. 9. Except as provided in rules adopted by the director:

- (1) a person may not take, possess, transport, export, process, sell, or offer for sale or shipment nongame species considered by the director to be in need of management under this section; and
- (2) a common or contract carrier may not knowingly transport or receive for shipment nongame species considered by the director to be in need of management under this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-10

Endangered species list

Sec. 10. On the basis of:

- (1) investigations on nongame species required by section 7 of this chapter; and
- (2) other available scientific and commercial data;

and after consultation with other state wildlife agencies, appropriate federal agencies, and other interested persons and organizations, the director shall adopt rules to propose a list of those species and subspecies of wildlife indigenous to Indiana that are determined to be endangered in Indiana, giving the common and scientific names by species and subspecies.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-11

Review of endangered species list

Sec. 11. (a) The director:

- (1) shall conduct a review of the state list of endangered species at least every two (2) years; and
- (2) may amend the list by the additions or deletions that are considered appropriate.

(b) The director shall submit to the governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-12

Unlawful taking or possession of endangered species

Sec. 12. (a) Except as otherwise provided in this chapter, a person may not take, possess, transport, export, process, sell or offer for sale, or ship, and a common or contract carrier may not knowingly transport or receive for shipment a species or subspecies of wildlife appearing on any of the following:

- (1) The list of wildlife indigenous to Indiana determined to be endangered in Indiana under this chapter.
- (2) The United States list of endangered wildlife (50 CFR 17.11) as in effect on January 1, 1979.
- (3) The list of endangered species developed under section 13 of this chapter.

(b) A species or subspecies of wildlife appearing on a list described in subsection (a) that:

- (1) enters Indiana from another state or from a point outside the territorial limits of the United States; and
- (2) is transported across Indiana destined for a point beyond Indiana;

may be so entered and transported without restriction in accordance with the terms of a federal permit or permit issued under the laws of another state.

(c) A person who:

- (1) violates subsection (a) or (b); or
- (2) fails to procure or violates the terms of a permit issued under:
 - (A) section 15 of this chapter; or
 - (B) section 16 of this chapter;

commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-13

Additions to endangered species list

Sec. 13. If in the determination of the director a species:

- (1) should be designated endangered; and
- (2) has not been designated endangered by the federal government;

the director may adopt rules to make the addition, whether or not a species or subspecies indigenous to Indiana is involved, under section 12 of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-14

Management of nongame species

Sec. 14. (a) The director shall establish the programs, including acquisition of land or aquatic habitat, that are considered necessary for the management of nongame species. The director shall use all authority vested in the department to carry out the purposes of this section.

(b) In carrying out programs authorized by this section, the

director may enter into agreements with:

- (1) federal agencies;
- (2) political subdivisions of the state; or
- (3) private persons;

for administration and management of an area established under this section or used for management of nongame species.

(c) The governor shall do the following:

- (1) Review other programs administered by the governor and, to the extent practicable, use the programs to further the purposes of this chapter.
- (2) Encourage other state and federal agencies to use their authorities to further the purposes of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-15

Taking of endangered species for scientific purposes

Sec. 15. The director may permit, under the terms and conditions that are prescribed by rule, the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife that have been designated by rule as in need of management or appear on the:

- (1) state list of endangered species;
- (2) United States list of endangered native fish and wildlife, as amended;
- (3) list of wildlife added under section 13 of this chapter; or
- (4) United States list of endangered foreign fish and wildlife, as modified after July 26, 1973;

for scientific, zoological, or educational purposes, for propagation in captivity of the wildlife, or for other special purposes.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-16

Removal, capture, or destruction of endangered species

Sec. 16. (a) Upon good cause shown, and if necessary to alleviate damage to property or to protect human health, endangered species or species in need of management may be removed, captured, or destroyed:

- (1) except as provided in subsection (b), under a permit issued by the director; and
- (2) if possible, by or under the supervision of an agent of the department.

(b) An endangered species or a species in need of management may be removed, captured, or destroyed without a permit by a person in an emergency situation involving an immediate threat to human life.

(c) The director shall adopt rules under section 7 of this chapter for the removal, capture, or destruction of nongame species for the purposes set forth in this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-17**Adoption of rules**

Sec. 17. The director shall adopt rules under IC 4-22-2 that are necessary to carry out the purposes of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-18**Applicability of chapter to wildlife possessed on July 26, 1973**

Sec. 18. The provisions of this chapter prohibiting the taking, possessing, transportation, exporting, processing, sale, or offer to sell do not apply to wildlife in the possession of a person in Indiana on July 26, 1973.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-19**Costs of programs**

Sec. 19. The costs of the programs established under this chapter may not be paid with money dedicated to fish and game purposes.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-20**Fund**

Sec. 20. (a) The nongame fund is established as a dedicated fund.

(b) The department shall administer the fund.

(c) In recognition of the importance of preserving the natural heritage of Indiana, it is the intent of the general assembly to provide a fund to be used exclusively for the protection, conservation, management, and identification of nongame and endangered species of wildlife primarily through the acquisition of the natural habitat of the animals. The department may expend the money in the fund exclusively for the preservation of nongame and endangered species of wildlife under this chapter.

(d) Money in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, the money in the fund reverts to the state general fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-21**Entrance fees**

Sec. 21. If the commission establishes entrance fees for admission to fish and wildlife areas, the fees shall be deposited in the fund. However, the holder of a hunting or fishing license under this article may not be charged a fee for admission to fish and wildlife areas.

As added by P.L.1-1995, SEC.15.